

By: Anchia

H.B. No. 723

A BILL TO BE ENTITLED

1 AN ACT

2 relating to renewable energy capacity, jobs, and trading credits.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. The purpose of this Act is to continue Texas'  
5 leadership in installing clean, renewable energy in Texas in a  
6 market-based manner that provides price protection for businesses  
7 and consumers.

8 SECTION 2. Section 36.053(d), Utilities Code, is amended to  
9 read as follows:

10 (d) If the commission issues a certificate of convenience  
11 and necessity or, acting under Section 39.203(e), orders an  
12 electric utility or a transmission and distribution utility to  
13 construct or enlarge transmission or transmission-related  
14 facilities to facilitate meeting the goals [~~goal~~] for generating  
15 capacity from renewable energy technologies established by  
16 Sections [~~under Section~~] 39.904(a) and (a-1), the commission shall  
17 find that the facilities are used and useful to the utility in  
18 providing service for purposes of this section and are prudent and  
19 includable in the rate base, regardless of the extent of the  
20 utility's actual use of the facilities.

21 SECTION 3. Section 37.056(c), Utilities Code, is amended to  
22 read as follows:

23 (c) The commission shall grant each certificate on a  
24 nondiscriminatory basis after considering:

- 1 (1) the adequacy of existing service;
- 2 (2) the need for additional service;
- 3 (3) the effect of granting the certificate on the
- 4 recipient of the certificate and any electric utility serving the
- 5 proximate area; and
- 6 (4) other factors, such as:
  - 7 (A) community values;
  - 8 (B) recreational and park areas;
  - 9 (C) historical and aesthetic values;
  - 10 (D) environmental integrity;
  - 11 (E) the probable improvement of service or
  - 12 lowering of cost to consumers in the area if the certificate is
  - 13 granted; and
  - 14 (F) to the extent applicable, the effect of
  - 15 granting the certificate on the ability of this state to meet the
  - 16 goals [~~goal~~] established by Sections [~~Section~~] 39.904(a) and (a-1)
  - 17 of this title.

18 SECTION 4. Section 39.203(e), Utilities Code, is amended to  
19 read as follows:

20 (e) The commission may require an electric utility or a  
21 transmission and distribution utility to construct or enlarge  
22 facilities to ensure safe and reliable service for the state's  
23 electric markets and to reduce transmission constraints within  
24 ERCOT in a cost-effective manner where the constraints are such  
25 that they are not being resolved through Chapter 37 or the ERCOT  
26 transmission planning process. The commission shall require an  
27 electric utility or a transmission and distribution utility to

1 construct or enlarge transmission or transmission-related  
2 facilities for the purpose of meeting the goals [~~goal~~] for  
3 generating capacity from renewable energy technologies established  
4 by Sections [~~under Section~~] 39.904(a) and (a-1). In any proceeding  
5 brought under Chapter 37, an electric utility or transmission and  
6 distribution utility ordered to construct or enlarge facilities  
7 under this subchapter need not prove that the construction ordered  
8 is necessary for the service, accommodation, convenience, or safety  
9 of the public and need not address the factors listed in Sections  
10 37.056(c)(1)-(3) and (4)(E). Notwithstanding any other law,  
11 including Section 37.057, in any proceeding brought under Chapter  
12 37 by an electric utility or a transmission and distribution  
13 utility related to an application for a certificate of public  
14 convenience and necessity to construct or enlarge transmission or  
15 transmission-related facilities under this subsection, the  
16 commission shall issue a final order before the 181st day after the  
17 date the application is filed with the commission. If the  
18 commission does not issue a final order before that date, the  
19 application is approved.

20 SECTION 5. Section 39.904, Utilities Code, is amended by  
21 amending Subsections (a), (b), (c), (d), (n), and (o) and adding  
22 Subsections (a-1), (n-1), and (p) to read as follows:

23 (a) It is the intent of the legislature that by January 1,  
24 2015, an additional 5,000 megawatts of generating capacity from  
25 tier 1 renewable energy technologies will have been installed in  
26 this state. The cumulative installed tier 1 renewable capacity in  
27 this state shall total 5,880 megawatts by January 1, 2015, and the

1 commission shall establish a target of 10,000 megawatts of  
2 installed renewable capacity by January 1, 2025. [~~The cumulative  
3 installed renewable capacity in this state shall total 2,280  
4 megawatts by January 1, 2007, 3,272 megawatts by January 1, 2009,  
5 4,264 megawatts by January 1, 2011, 5,256 megawatts by January 1,  
6 2013, and 5,880 megawatts by January 1, 2015. Of the renewable  
7 energy technology generating capacity installed to meet the goal of  
8 this subsection after September 1, 2005, the commission shall  
9 establish a target of having at least 500 megawatts of capacity from  
10 a renewable energy technology other than a source using wind  
11 energy.~~]

12 (a-1) It is the goal of the legislature that by January 1,  
13 2022, an additional 1,500 megawatts of generating capacity from  
14 tier 2 renewable energy technologies will have been installed in  
15 this state. The cumulative installed tier 2 renewable capacity in  
16 this state shall total at least 100 megawatts by January 1, 2014;  
17 200 megawatts by January 1, 2015; 350 megawatts by January 1, 2016;  
18 500 megawatts by January 1, 2017; 750 megawatts by January 1, 2018;  
19 900 megawatts by January 1, 2019; 1,000 megawatts by January 1,  
20 2020; 1,250 megawatts by January 1, 2021; and 1,500 megawatts by  
21 January 1, 2022. On January 1, 2018, if the commission determines  
22 the state has not made significant progress toward the goal of this  
23 subsection, then the commission may take action to suspend future  
24 obligations under this subsection.

25 (b) The commission shall establish a tier 1 renewable energy  
26 credits trading program and a tier 2 renewable energy credits  
27 trading program. Any retail electric provider, municipally owned

1 utility, or electric cooperative that does not satisfy the  
2 requirements of Subsection (a) or (a-1) by directly owning or  
3 purchasing capacity using renewable energy technologies shall  
4 purchase sufficient renewable energy credits to satisfy the  
5 requirements by holding renewable energy credits in lieu of  
6 capacity from renewable energy technologies. In calculating  
7 capacity factors for tier 2 renewable energy credits, the  
8 commission shall encourage a diverse portfolio of tier 2 renewable  
9 energy technologies. The commission may adopt rules to establish a  
10 sub-tier within the tier 2 renewable energy credits trading program  
11 for one or more types of renewable energy technology included in the  
12 tier 2 program.

13 (c) The [~~Not later than January 1, 2000, the~~] commission  
14 shall adopt rules necessary to administer and enforce this section.  
15 At a minimum, the rules shall:

16 (1) establish the minimum annual renewable energy  
17 requirement for each retail electric provider, municipally owned  
18 utility, and electric cooperative operating in this state in a  
19 manner reasonably calculated by the commission to produce, on a  
20 statewide basis, compliance with the requirements [~~requirement~~]  
21 prescribed by Subsections (a) and (a-1) [~~Subsection (a)~~]; and

22 (2) specify reasonable performance standards that all  
23 renewable capacity additions must meet to count against the  
24 requirements [~~requirement~~] prescribed by Subsections (a) and (a-1)  
25 [~~Subsection (a)~~] and that:

26 (A) are designed and operated so as to maximize  
27 the energy output from the capacity additions in accordance with

1 then-current industry standards; and

2 (B) encourage the development, construction, and  
3 operation of new renewable energy projects at those sites in this  
4 state that have the greatest economic potential for capture and  
5 development of this state's environmentally beneficial renewable  
6 resources.

7 (d) For purposes of [In] this section:

8 (1) "Renewable energy technology" means a tier 1 or  
9 tier 2 renewable energy technology.

10 (2) "Tier 1 renewable energy technology" [,"renewable  
11 energy technology"] means any technology that exclusively relies on  
12 an energy source that is naturally regenerated over a short time and  
13 derived directly from the sun, indirectly from the sun, or from  
14 moving water or other natural movements and mechanisms of the  
15 environment. Renewable energy technologies include those that rely  
16 on energy derived directly from the sun, on wind, geothermal,  
17 hydroelectric, wave, or tidal energy, or on biomass or  
18 biomass-based waste products, including landfill gas. A renewable  
19 energy technology does not rely on energy resources derived from  
20 fossil fuels, waste products from fossil fuels, or waste products  
21 from inorganic sources.

22 (3) "Tier 2 renewable energy technology" means tier 1  
23 renewable energy technology, excluding technology that derives  
24 energy from wind, with a capacity of more than 150 kilowatts.

25 (n) Notwithstanding any other provision of law, the  
26 commission shall have the authority to cap the price of renewable  
27 energy credits and may suspend the goals [~~goal~~] contained in

1 Subsections (a) and (a-1) [~~Subsection (a)~~] if such suspension is  
2 necessary to protect the reliability and operation of the grid.

3 (n-1) The commission shall reduce the requirement under  
4 Subsection (c)(1) for a retail electric provider, municipally owned  
5 utility, or electric cooperative that is subject to a renewable  
6 energy requirement under this section if the commission determines  
7 that compliance with the goals of Subsection (a-1) and a federal  
8 renewable portfolio standard that is more stringent than those  
9 goals would result in a net rate increase of one percent or more for  
10 retail customers.

11 (o) The commission may establish tier 1 and tier 2 [~~an~~]  
12 alternative compliance payments [~~payment~~]. An entity that has a  
13 renewable energy purchase requirement under this section may elect  
14 to pay the alternative compliance payment instead of applying  
15 renewable energy credits toward the satisfaction of the entity's  
16 obligation under this section. [~~The commission may establish a~~  
17 ~~separate alternative compliance payment for the goal of 500~~  
18 ~~megawatts of capacity from renewable energy technologies other than~~  
19 ~~wind energy.~~] The tier 1 alternative compliance payment for a  
20 renewable energy purchase requirement that could be satisfied with  
21 a renewable energy credit from wind energy may not be less than  
22 \$2.50 per credit or greater than \$20 per credit. The tier 2  
23 alternative compliance payment for a renewable energy purchase  
24 requirement that could be satisfied with a tier 2 renewable energy  
25 credit may not be set above \$90 per credit before December 31, 2016;  
26 \$80 per credit before December 31, 2017; \$65 per credit before  
27 December 31, 2018; \$45 per credit before December 31, 2019; \$40 per

1 credit before December 31, 2020; \$35 per credit before December 31,  
2 2021; and \$30 per credit before December 31, 2022. [~~Prior to~~  
3 ~~September 1, 2009, an alternative compliance payment under this~~  
4 ~~subsection may not be set above \$5 per credit.~~] In implementing  
5 this subsection, the commission shall consider:

6 (1) the effect of renewable energy credit prices on  
7 retail competition;

8 (2) the effect of renewable energy credit prices on  
9 electric rates;

10 (3) the effect of the alternative compliance payment  
11 level on the renewable energy credit market; and

12 (4) any other factors necessary to ensure the  
13 continued development of the renewable energy industry in this  
14 state while protecting ratepayers from unnecessary rate increases.

15 (p) If the commission suspends the tier 2 renewable energy  
16 technology goal under Subsection (a-1), retail electric providers  
17 shall refund, under the guidance of the commission, all alternative  
18 compliance payment funds collected to the residential and  
19 commercial electric customers covered by this subchapter. If the  
20 commission does not suspend the tier 2 renewable energy technology  
21 goal under Subsection (a-1), the alternative compliance payment  
22 funds collected by the commission shall be used for the purposes of  
23 a solar rebate program established by the commission.

24 SECTION 6. This Act takes effect September 1, 2013.